STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 99-170

July 19, 1999

MAINE PUBLIC UTILITIES COMMISSION
Inquiry Into Standard Form Contracts and Terms, Conditions and Charges Applicable to Standard Offer and Competitive Electricity Providers

ORDER ADOPTING STANDARD FORM CONTRACTS

WELCH, Chairman; NUGENT and DIAMOND, Commissioners

I. SUMMARY

In this Order, we adopt the standard form contracts to govern the relationship between T&D utilities and competitive electricity providers.

II. BACKGROUND

On March 23, 1999, the Commission initiated an inquiry for purposes of developing standard form contracts to govern the relationship between T&D utilities and generation service providers (both competitive electricity providers and standard offer providers). Pursuant to Commission rules, utilities are required to file standard form contracts for Commission approval. Ch. 301, § 5(D); Ch. 322, § 10. The Commission decided that a statewide working group would be a useful means to develop the standard contracts and initiated this inquiry as the procedural vehicle for establishing the group.

In its Notice of Inquiry, the Commission stated that any interested person could become a member of the working group. The State's electric utilities, several potential competitive providers, the Public Advocate, Commission staff members, and other interested persons served on the working group.[1] The working group met on numerous occasions to develop state-wide standard contracts.

On June 29, 1999, the working group filed standard contracts, along with associated exhibits. The group developed a separate standard contract for competitive providers and standard offer providers. Each utility will use the same standard contracts, but the contracts will include exhibits with utility-specific provisions. Our staff indicated that no member of the group expressed disagreement with the language contained in the final documents, but that interested persons were informed that they could file formal comments prior to our deliberations of this matter.

[1] A list of those persons that asked to be members of or to monitor the working group was attached to the group's June 29, 1999 submittal letter.

III. COMMENTS

On July 8, 1999, the Public Advocate filed comments on the following areas: off-cycle terminations, dispute resolution, telephone numbers, and incremental costs. We address each of these below.

A. Off-Cycle Terminations

The Public Advocate notes that Exhibit A of the contracts specifies that fees for off-cycle terminations will be charged to the requesting party.[2] The Public Advocate does not dispute that the requesting party should pay the fee but is concerned about the possibility that a provider may include a term in its contract that would allow it to require a residential customer to pay for an actual meter read, when a customer may be satisfied with a prorated reading. The Public Advocate suggests language be included in the contracts that would prevent such a scenario from occurring.

We understand the Public Advocate's concern; however, the matter is one for our customer protection rules. Competitive providers will have flexibility to contract with customers as long as the provider complies with our consumer protection rules (Chapter 305) and other applicable regulations. Because the development of standard form contracts is not the proper forum for this type of issue, we decline to adopt the Public Advocate's suggested language. However, we will examine the matter in the context of our consumer protection rules if this, or any other provider contractual practice turns out to be a problem.

B. Dispute Resolution

The Public Advocate requests that information provided to the Commission pursuant to the dispute resolution provision of the contracts also be provided to the Public Advocate. We will add such language to the contracts.

C. Telephone Numbers

The Public Advocate asks that the contracts specify that the telephone number for the supplier (in addition to that of the utility) be included on consolidated bills.

Chapter 305 governs the contents of generation provider bills and it does not require inclusion of supplier telephone numbers. However, Chapter 306 requires that suppliers' telephone numbers be included on the terms of service documents and the disclosure label. Because the issue is appropriately raised in a Chapter 305 rulemaking, we decline to modify the contracts as requested. We note that the Public

[2] We note that Bangor Hydro-Electric Company's and Houlton Water Company's Exhibits A do not have this provision. We understand this to be an oversight and direct that the provision be included in the Exhibits.

Advocate raises what may be a valid point. Customers may find it convenient to have their provider's telephone number on the consolidated bill. Providers and utilities may agree among themselves to add the provider's telephone number to the consolidated bill.

D. Incremental Costs

The Public Advocate notes that Chapter 322 requires utilities to charge providers the incremental costs of providing consolidated billing and that utilities provided back-up data supporting its charges to the working group. The Public Advocate requests that this back-up data be filed and that the Commission determine whether the calculations constitute incremental costs as anticipated in Chapter 322. The Public Advocate is concerned that costs that should be charged to providers may not be included in the charges, and that the same costs are being accounted for in this proceeding as well as the general ratemaking proceeding. The Public Advocate also believes that the development of the EBT process should come within the definition of incremental. Finally, the Public Advocate states that ratepayers should not bear the burden of paying for the new billing systems.

We decline the Public Advocate requests in this regard. As noted by the Public Advocate, utilities provided back-up data supporting the charges to interested parties during the working group process. Interested parties had an opportunity to question utilities on this data and to request additional information. As a result of this process, utilities revised their charges prior to formal filing pursuant to an agreement to use the same method of determining incremental cost. Our Staff is satisfied that the charges are based on a reasonable definition of incremental consistent with the purposes of Chapter 322. We note that the charges may be revisited in a year and that the entire matter will be comprehensively explored when we implement competitive billing and metering beginning March 2002. We also note that the charges for consolidated billing must be determined prior to August 2, 1999, because they will be included in our standard offer bid packages.

With respect to the EBT process, we disagree that EBT costs are incremental costs of consolidated billing. Rather, EBT is a necessary part of retail competition and would be required regardless of the existence of consolidated billing. EBT developments is a cost of the necessary utility infrastructure to accomplish industry restructuring and, as such, it is appropriate to charge all ratepayers the costs of EBT developments.

Finally, we will not allow the double-counting of costs; we will identify and remove such costs from the T&D utility revenue requirements in the pending rate proceedings.

IV. DECISION

We have reviewed the standard contracts and find them to be consistent with the purposes of Chapters 301 and 322. In addition to the modifications in response to the Public Advocate comments, we direct that three minor changes be made to clarify the language of the contracts: (1) that the delivery point provision in both contracts clarify when delivery must be made to the ISO-NE control area, as opposed to the Maritimes control area; (2) that language be added to clarify when a customer will be considered to have changed standard offer rate classes; and (3) that part (b) of Section 8.2 in the Standard Offer Provider contract be deleted as unnecessary and potentially inaccurate. For clarity and consistency, we also direct that the standard offer rate class provision (with the second change mentioned above) contained in CMP's Exhibit A be added to the other IOUs' Exhibit A.

With these changes, we adopt the standard form contracts and associated exhibits. The contracts and associated exhibits attached to this Order contain the directed changes.

Dated at Augusta, Maine, this 19th day of July, 1999.

BY ORDER OF THE COMMISSION

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Raymond J. Robichaud
Assistant Administrative Director

COMMISSIONERS VOTING FOR: Welch
Nugent
Diamond

NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.

2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within 30 days of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320(1)-(4) and the Maine Rules of Civil Procedure, Rule 73, et seq.

3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320(5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.